

REMARKS

Entry of the above-amendments and reconsideration and withdrawal of the rejections are respectfully requested.

The rejection of claims 1, 3, 28, 30, 37, 39, and 46 as being rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctively claim the subject matter which applicant regards as the invention is traversed.

In the Markush language of claim 1, the "or" in line 4 has been changed to -- and --.

Concerning the language in claim 1 of ter-polymer of a carboxylic acid, as being incorrect and indefinite in not specifying the particular acids since oxalic acid which falls within the scope of said carboxylic acid cannot polymerize with the at least one polyethyleneglycol monoallyl ether sulfate, it is submitted that applicants in the specification on page 5 in lines 8-13 have set forth a sufficient number of examples of the materials that can be used within the scope of the present invention that relates to carboxylic acid, sulfonic acid, and phosphonic acid. It is submitted that these terms are well known in the art and that a person skilled in the art would know exactly which acids could be used in this invention based on the teachings of applicants. Moreover, the language used in the claim is co- or ter-polymer so that oxalic acid would form a co-polymer. In other words, the only carboxylic acids that could be used in this invention are the ones that form a co- or ter-polymer, since that is a requirement of the claim. Hence, applicants are entitled to a broad definition of materials that could be used within the scope of the invention. Therefore claim 1 is a broad claim which applicants are entitled to.

Concerning sulfonic acid and phosphonic acid, the patent statutes do not require that applicants necessarily put every limitation in a claim that would be within the skill of a person in the art. Hence, any limitations that would be required to react phosphonic acid or sulfonic acid to form the polymer would be well known to a person skilled in the art.

Concerning the objection based on the recited “and adhesives” in line 2 of claims 3, 28, 37, and 46 as being confusing and indefinite absent of a particular cement, it is submitted that claim 3 depends from claim 2 that requires that the cement be Portland cement. Hence, all of the cement-based materials in claim 3 are required to be based on Portland cement. Moreover, under the heading Building Materials starting on line 30 of page 7 and ending at page 8, line 5, applicants describe that most of the building materials are based on Portland cement, plaster of Paris, or vinyl co-polymers containing functional additives to impart characteristics required for various construction applications. Hence, a person having an ordinary skill in the art after reading the specification would know exactly on what cement the particular material would be based.

The formulas of claims 30 and 39 have been amended to include the definition for “c, d, and e”. Hence, these claims are no longer indefinite.

In Formula IV on page 6 of the specification and in the corresponding Formula in claim 39, an inadvertent error occurred in structure of 1-allyloxy-2-hydroxypropyle-3-sulfonic acid. In order to avoid confusion, applicant has crossed out the incorrect structure with a diagonal line and has inserted along side the incorrect structure the correct structure with the correct number of $-CH_2-$ groups.

The rejection of claims 1-47 under the judicially created document of obviousness type double patenting as being unpatentable over claims 1-16 of US Patent Number 6,444,747 is traversed. In order to expedite the prosecution of the instant application, applicants have submitted the attached Terminal Disclaimer to obviate this rejection since the '747 patent was owned by the assignee of the present invention at the time that it was filed. This is further supported by the attached copy of the 2001 Annual Report of Hercules Incorporated in part, which shows BetzDearbornm Inc. as being a subsidiary of that company (2001 Annual Report page cover, Shareholder Letter, and pages 74 and 75). Hence, this rejection is a mute issue.

Withdrawal of the rejection of claims 1-47 is being rejected under 35 USC 102(e) as being anticipated by or, in the alternative, under 35 USC 103(a) as being obvious over Chen et al ('747) is now in order, since the above-mentioned Terminal Disclaimer has obviated the obviousness type double patenting rejection based on this patent. Therefore, this rejection is no longer valid and thus this becomes a mute issue. Hence, this reference is no longer a valid reference against the present application.

The rejection of claims 30-47 under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as being obvious over Tanaka et al ('206) or EP 0 448 717 is traversed. In claims 30 and 39, the definition of c, d, and e have been added to the claims which are not disclosed in the Tanaka et al or EP patent. Moreover, it is submitted that these references do not disclose the co- or ter-polymer as defined in the claims of the instant invention. Hence, neither of these references anticipate the instant invention. Moreover, armed with either of these references would not be in possession of applications' invention since the polymers are different.

For the reason set forth above, it is submitted that this application is now in condition for allowance and notification thereof is respectfully requested.

Respectfully submitted,



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